



REGULATORY AGENCY ACTION

BUREAU OF ELECTRONIC AND APPLIANCE REPAIR

Chief: Jack Hayes
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The Bureau of Electronic and Appliance Repair (BEAR) was created by legislative act in 1963. It registers service dealers who repair major home appliance and electronic equipment.

Grounds for denial or revocation of registration include false or misleading advertising, false promises likely to induce a customer to authorize repair, fraudulent or dishonest dealings, any willful departure from or disregard of accepted trade standards for good and workmanlike repair and negligent or incompetent repair. The Electronic and Appliance Repair Dealers Act also requires service dealers to provide an accurate written estimate for parts and labor, provide a claim receipt when accepting equipment for repair, return replaced parts, and furnish an itemized invoice describing all labor performed and parts installed.

The Bureau continually inspects service dealer locations to ensure compliance with the Electronic and Appliance Repair Dealers Registration Law and regulations. It also receives, investigates and resolves consumer complaints.

The Bureau is assisted by an Advisory Board comprised of two representatives of the appliance industry, two representatives of the electronic industry, and five public representatives, all appointed for four-year terms. Of the five public members, three are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate President pro Tempore.

Armen Karagosian, an electronic service dealer from Fresno, was elected Advisory Board President for the year 1989; Fay Wood, a public member, was recently elected as Vice-President. Ms. Wood was formerly with Elite, a service contracts administrator. She is presently the owner of a consulting/marketing business for companies involved in service contracts.

MAJOR PROJECTS:

Registration of Electronic and Appliance Technicians. At the Board's November 18 meeting, BEAR Los Angeles Office Supervisor Zeferino Lopez presented a proposal for the registration of electronic and appliance technicians in California. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 54 for background information.) The Board is considering whether the registration and/or licensing of technicians would improve consumer

protection. A contested issue is whether technicians should have to pass a competency test to be allowed to repair electronic and appliance equipment.

Those opposed to the licensing of technicians argue that many technicians in the repair industry have been trained by the employer (service dealer) and have become valued, skilled technicians, but may not be able to pass a written test. In contrast to licensing, registration of technicians would allow BEAR to track and discipline incompetent technicians. A registration requirement might prevent an incompetent technician from moving from service dealer to service dealer with impunity. The Board's Legislative Committee, which has been studying this issue, has asked registered service dealers to complete a questionnaire regarding this proposal.

LEGISLATION:

During the 1989 legislation session, the Board plans to sponsor legislation to amend section 9801(g)(2) of the Business and Professions Code, to extend its jurisdiction over the installation of automobile alarm (anti-theft) systems. At present, many dealers who install radios and stereo systems in vehicles and are registered with BEAR also advertise and install security systems. However, the Bureau of Automotive Repair is presently authorized to regulate the installation of automobile security systems, which are electronic in nature but are integrated into the operation of vehicles in other respects. This proposal would give BEAR jurisdiction over the installation of security systems.

BEAR may also seek an amendment to the Penal Code, to make the conversion of funds collected on a third party service contract sale by a retailer an embezzlement as defined and punished under Penal Code section 507. The statute would include not only an owner or partner of any business engaged in the sale of service contracts under a third party arrangement, but any authorized agent selling service contracts working for the retailer.

BEAR also hopes to add section 9854 to the Business and Professions Code, to authorize the Director of the Department of Consumer Affairs to issue a citation for an order of correction to any unregistered person unlawfully advertising in an alphabetical or classified directory. If not corrected, the Public Utilities Commission would then require the phone corporation furnishing service to cease all service to the telephone number contained in the unlawful advertising.

RECENT MEETINGS:

At its October meeting, the Legislative Committee discussed the practice of service contract administrators who require their authorized service dealers to retain replaced parts from service contract repairs for inspection. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 54 for background information.) This practice sometimes conflicts with current section 9843 of the Business and Professions Code, which requires service dealers to return most replaced parts to consumers after repairs. The Committee is unwilling to recommend a change in the statute to exempt service contract administrators or manufacturers who sell service contracts from returning replaced parts. BEAR has sent letters to service contract administrators advising them of this requirement and of the fact that their authorized service dealers may be in violation of section 9843.

FUTURE MEETINGS:

May 26 in Anaheim.

August 25 in San Francisco.

November 17 in San Diego.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Executive Officer: James B. Allen
(916) 445-2413

The five-member Board of Funeral Directors and Embalmers licenses funeral establishments and embalmers and approves changes of business name or location. It registers apprentice embalmers, approves funeral establishments for apprenticeship training, annually accredits embalming schools and administers the licensing examinations. The Board inspects the physical and sanitary conditions in a funeral establishment, enforces price disclosure laws and audits preneed funeral trust accounts maintained by its licensees. (A Board audit of a licensed funeral firm's preneed trust funds is statutorily mandated prior to transfer or cancellation of the license.) In addition, the Board investigates and resolves consumer complaints.

MAJOR PROJECTS:

Advertising Practices. At its September 22 meeting in San Diego, the Board discussed its proposed response to a letter mailed by the Cemetery Board on July 10 to all funeral directors. The July 10 letter represents the latest installment in the ongoing dispute between the Board of Funeral Directors and Embalmers and the Cemetery Board over the funeral



directors' practice of advertising "cremation services." The Cemetery Board, which licenses crematories, has long contended that it is unlawful for funeral directors who are non-Cemetery Board licensees to advertise in telephone directories under the "cremation services" heading, because non-Cemetery Board licensees are not legally authorized to perform cremations. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 48; Vol. 7, No. 4 (Fall 1987) p. 43; and Vol. 7, No. 3 (Summer 1987) pp. 62-63 for extensive background information.)

The letter written by the Cemetery Board presented a list of suggested directory headings for use by funeral directors in the telephone directory. The Funeral Directors Board generally agreed with the information stated and the suggestions made by the Cemetery Board. However, it noted that the Cemetery Board had omitted the "cremation services" heading in its list of suggestions, and stated its opinion that it is not a violation of the laws administered by the Board of Funeral Directors and Embalmers for funeral directors to be listed under the heading "cremation services", whether or not licensed by the Cemetery Board.

At its September 22 meeting, the Board approved the mailing of a response letter to all funeral directors which would convey this opinion. The response letter also noted that, while the Cemetery Board has no authority to take administrative disciplinary action against funeral director licensees, it could conceivably institute legal action against funeral directors which it believes to be advertising in violation of the law. In addition, the Cemetery Board could refer cases to other law enforcement officials.

In its response letter, the Board also recommended that funeral directors refrain from using terms such as "cremation", "burial", "interment", or "entombment" standing alone, unless they are licensed by the Cemetery Board. In order to clearly and accurately communicate the role of funeral directors who are not licensed by the Cemetery Board, the Board suggested the use of such phrases as "cremation arrangements", "interment services", "graveside services" or similar terms.

RECENT MEETINGS:

At its November 17 meeting in San Francisco, the Board approved a series of various applications. The Board approved applications by fourteen employers to employ apprentice embalmers; the

issuance of 35 certificates of registration to apprentice embalmers; and the issuance of six embalmers' licenses.

In addition, the Board approved its 1989 meeting schedule.

FUTURE MEETINGS:

March 30 in Long Beach.

May 25 in Eureka.

July 27 in Ventura.

September 28 in Monterey.

BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

Executive Officer: John E. Wolfe
(916) 445-1920

The Board of Registration for Geologists and Geophysicists (BRGG) was created by statute in 1969. This eight-member Board licenses geologists and geophysicists and certifies engineering geologists. In addition to successfully passing the Board's written examination, an applicant must have fulfilled specified educational requirements and have the equivalent of seven years of professional experience in his/her field. This requirement may be satisfied with a combination of education from a school with a Board-approved program in geology or geophysical science, and qualifying field experience.

The Board has the power to discipline licensees who act in violation of the Board's licensing statutes. The Board may issue a citation to licensees or unlicensed persons for violations of Board rules. These citations may be accompanied by an administrative fine of up to \$2,500.

The Board is composed of five public members and three professional members. BRGG's staff consists of two full-time employees (Executive Officer John Wolfe and his secretary) and two part-time personnel. The Board's committees include the Professional Practices, Legislative, and Examination Committees. BRGG is funded by the fees it generates.

MAJOR PROJECTS:

Examinations. At the Board's October 24 meeting, Executive Officer John Wolfe recommended that only one exam in each field be given in 1989. In 1988, 519 applicants took exams required for BRGG certification, and the current number of Board staff is insufficient to review the exams and complete other required work. The posting date for exam results was delayed, and the appeals procedure is very slow. Board

members expressed concern that it would be unfair to qualified applicants not to administer the test twice per year, as is currently the practice. The Board decided to press the legislature to raise the ceiling on its licensing fees in 1989, so it can hire additional staff to cope with the increased workload.

The Board also decided to review its mutual recognition policy with other states. Currently, BRGG recognizes the exams of certain states as substitutes for California's exam. Board members are concerned that these exams have not been reviewed in some time. The Examination Committee was instructed to obtain copies of the exams from states with whom California maintains this mutual recognition program, and review them for uniformity with California's exam.

Budget. The Board filed three budget change proposals (BCPs) in 1988. The first was a mid-year revision requesting more money to investigate a fraud complaint about a man who has since moved to New Mexico. The second proposal asked for an additional \$14,000 to hire a half-time staff worker. The third change requests \$28,000 for an additional full-time staff member in 1989. At this writing, these BCPs await review by the Department of Finance.

Guidelines. The Professional Practices Committee recently submitted drafts of guidelines for groundwater investigation reports, engineering geologic reports, and geophysical reports. The guidelines were prepared by the Committee to assist those involved in the preparation and review of these reports. The guidelines suggest general procedures, and are not intended to be a complete list of all techniques for such studies, although they do address most major topics. Department of Consumer Affairs (DCA) counsel Barbara King reviewed the documents and made several nonsubstantive changes to clarify the Board's authority. The Board voted to adopt the three guidelines as "informational documents," stressing that it wishes to avoid the interpretation of these guidelines as "standards of practice." The DCA has rebuffed previous versions of the guidelines as attempts to promulgate "standards of practice" without compliance with the Administrative Procedure Act, which is illegal as it constitutes underground rule-making. The Board hopes that these latest revisions will meet with DCA's approval as "suggested guidelines" and not be rejected as "standards of practice." The Board also approved minor changes to the guidelines for Earthquake and